

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAVID PILLATOS,

**Plaintiff,**

V.

CAPT. SPENCER, *et al.*,

### Defendants.

Case No. C07-5399 FDB

**ORDER ADOPTING REPORT AND  
RECOMMENDATION DISMISSING  
COMPLAINT WITH PREJUDICE**

This matter comes before the Court on the Report and Recommendation of the Magistrate Judge that Defendants' motion for summary judgment seeking dismissal of Plaintiff's civil rights claims complaint be granted. Plaintiff alleges that while confined in the Pierce County Detention and Corrections Center (PCDCC) he was subjected to in-cell restraints, lockdowns, placement on suicide watch, and denial of outdoor exercise that constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. Plaintiff also alleges a violation of substantive due process. Defendants assert they are entitled to summary judgment for failure of Plaintiff to exhaust administrative remedies and lack of evidence to support a violation of constitutional rights.

As detailed by the Magistrate Judge, even accepting Plaintiff's allegations as true, there were no substantive deprivations. There is no evidence that the lockdowns were not justified or that they were oppressive or constituted cruel and unusual punishment. The record reflects that Plaintiff claims no injuries and suffered none, he was engaged in destructive activities necessitating the in-cell restraints, the restraints were used for a short period of time and Plaintiff was monitored by corrections officers and medical personnel. There also exist sufficient evidence to support the

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1 placement on suicide watch. In addition Plaintiff has not alleged and there is no evidence that he was  
2 subjected to pain or deprived of the basic human needs, such as adequate food, clothing, shelter,  
3 sanitation and medical care during the period of suicide watch.

4 Plaintiff's due process claim is also subject to summary judgment dismissal. Plaintiff does not  
5 have a right to be housed in any particular unit of the PCDCC and his allegations can be attributed to  
6 legitimate penological interest. There is no basis for the allegation that Plaintiff was wrongfully  
7 denied infractions and/or disciplinary hearings.

8 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L.  
9 Strombom, objections to the Report and Recommendation, if any, and the remaining record, does  
10 hereby find and ORDER:

- 11 (1) The Court adopts the Report and Recommendation;
- 12 (2) Defendants' motion for summary judgment [Dkt. # 27] is **GRANTED**;
- 13 (3) Plaintiff's Complaint [Dkt. # 4] is **Dismissed with Prejudice**; and
- 14 (4) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants  
and to the Hon. Karen L. Strombom.

15 DATED this 11<sup>th</sup> day of August, 2008.  
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19 FRANKLIN D. BURGESS  
20 UNITED STATES DISTRICT JUDGE  
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